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ADMINISTRATION OF FEDERAL EMPLOYEE LEAVE SYSTEM

NOVEMBER 9, 1973.—Ordered to be printed

Mr. McGEE, from the Committee on Post Office and Civil Service,
submitted the following

REPORT

[To accompany H.R. 1284]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 1284) having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

AMENDMENTS

In Section 3 of the bill, the Committee has added a new subsection (e) to read:

“(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d) (2) of this section because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate in effect on the date the lump-sum payment provisions became applicable.”

Other amendments are of a technical or conforming nature.

EXPLANATION OF AMENDMENTS

The only substantive amendment was recommended by the Civil Service Committee in its report to the Committee on H.R. 1284 as it passed the House of Representatives. It is intended to correct an oversight in the drafting of the original bill to insure continuing authority to correct administrative errors that may be uncovered for employees who separate from the service after the date of enactment of this bill.

PURPOSES

The purposes of H.R. 1284 are several, including:

1. To permit employees to accumulate leave beyond the current maximums if they lost leave through no fault of their own through administrative error, exigencies of public business, or illness.
2. To provide for improved administration of the Federal employee leave system by permitting employees to take leave during the first 90 days of employment, by providing for lump-sum payment for leave beyond present maximums in the year of separation, and by adding new provisions for recovery from employees for excess leave.
3. To permit payment for annual leave forfeited under section 6304 of title 5, United States Code, by civilian employees of the Federal Government in a missing status on or after January 1, 1965.

COMMITTEE ACTION

No hearings were held on this legislation during this session of the Congress. H.R. 1284, as amended, was approved by voice vote and ordered reported favorably on November 7, 1973.

STATEMENT

H.R. 1284 makes no change in the formula by which Federal employees accumulate annual leave. However, it does make several changes in the administration of the leave system and corrects several minor but longstanding inequities in the system.

Under present provisions, employees generally may carry-over no more than 30 days of annual leave from one year to the next. For those serving abroad, the carryover limitation is 45 days. H.R. 1284 would permit lump-sum payment for leave in excess of the normal maximum in the year of an employee's separation. It also would, in cases where leave is lost through no fault of the employee, because of administrative error, exigencies of public business, or sickness, permit the lost leave to be restored to the employee. In the case of exigencies of public business or sickness, the leave would have to be previously scheduled and approved for the provisions of H.R. 1284 to become operative.

Another provision of the bill permits employees, except those serving appointments limited to less than 90 days, to take earned leave during their first 90 days of employment. Yet another provision would permit an employee to whom excess leave was erroneously credited, and who has used that leave, to pay back the leave by lump sum, installment payments, or by charging it against future earned leave. Unless payment is waived, employees now are required to pay back excess leave by lump sum unless they have earned leave available to surrender.

Provision is made in H.R. 1284 for former employees to be credited and paid for annual leave lost by administrative error after June 30, 1960 if they make claim within three years immediately following the date of enactment of this legislation. The Committee has amended H.R. 1284 to provide for similar recovery for employees now on the

rolls but who separate from the service prior to discovery of leave lost by administrative error. Likewise, former employees of the U.S. Post Office Department and present or former employees of the U.S. Postal Service who had civilian service between June 30, 1960 and June 30, 1971, are covered for leave lost prior to the creation of the Postal Service. Details of the leave system for employees of the Postal Service since its creation are properly the subject of collective bargaining under title 39, United States Code and are, therefore, unaffected by this legislation.

Finally, the bill provides that civilian employees who are or were in missing status subsequent to January 1, 1965, may receive payment for leave accumulated over current maximums. This provision, covering, as it does, employees who made considerable sacrifice in the performance of their duties, scarcely requires justification. The provisions of law providing the maximum carryover of annual leave clearly was not written with situations such as those they faced in mind.

SECTION ANALYSIS

Subsection (a) of the first section of the reported bill amends section 5551(a) of title 5, United States Code, to authorize a lump-sum payment for all of the annual leave standing to the credit of an employee at the time of his separation from the service. Under existing law, an employee who separates from Government service or who enters on active duty in the armed services is entitled to receive lump-sum payment for the annual leave to his credit. However, that payment now is generally limited to 30 days of annual leave or the number of days carried over to the employee's credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater.

Subsection (b) of the first section of the bill amends section 5551(b) of title 5, United States Code, relating to officers who are excepted from the annual and sick leave provisions of chapter 63 of title 5 by section 6301(2)(x)-(xii) of that title. This is a technical amendment made necessary by the preceding amendment.

Section 2 of the bill amends section 6303(b) of title 5, United States Code, to eliminate the ban on the use of annual leave during the first 90 days of employment for all employees except those with temporary appointments limited to less than 90 days. Under existing law, an employee, regardless of the nature of his appointment, may not use annual leave during the first 90 days of his service.

Section 3 of the bill proposes two new subsections to be added to section 6304 of title 5, United States Code.

Under existing provisions of section 6304 most employees carry forward from one leave year to the next a maximum of 30 days of annual leave. Any leave in excess of 30 days which is not used by an employee before the start of the new leave year is forfeited by operation of section 6304(a) regardless of the reasons for the employee's failure to use such leave.

Paragraph (1) of the new section 6304(d), as added by section 3 of the bill, provides that annual leave lost by operation of section 6304 because of administrative error, exigencies of the public business, or sickness of the employee, shall be restored to the employee's leave account.

With respect to annual leave lost because of administrative error, the authority to restore such lost leave includes any annual leave which accrued after June 30, 1960, but was forfeited under section 6304 of title 5.

With respect to annual leave lost because of the exigencies of the public business or sickness of the employee, the authority to restore such leave would apply only to annual leave which was scheduled in advance of the date that the employee desired to take such leave. These provisions apply only to leave which is lost on or after the date of enactment of this act.

Paragraph (2) of the new section 6304(d) provides that any annual leave which is restored to an employee under the authority of paragraph (1) of that section and which is in excess of the employee's annual leave ceiling shall be credited to a separate leave account. The restored leave then will be available for use by the employee within reasonable time limits to be prescribed by regulations of the Civil Service Commission. Paragraph (2) further provides that in the case of an employee who separates from the service or who enters on active duty in the armed services, any leave credited under that paragraph which is unused and still available to the employee under the time limits prescribed by the Civil Service Commission shall be included in the lump-sum payment authorized under section 5551 or 5552(1), as applicable, of title 5.

With respect to employees who enter on active duty in the armed services, the annual leave credited under paragraph (2) may not be retained to the credit of the employee under section 5552(2) of title 5.

The new subsection 6304(e), as added by the Committee's amendment to section 3 of the bill, provides that annual leave lost by administrative error and not credited under subsection (d) (2) of this section because the employee is separated before the error is discovered may be liquidated by lump-sum payment if a claim therefor is filed within three years of the date of discovery of the error. This subsection provides that payment be made by the agency of employment at the time of the employee's latest eligibility for lump-sum payment under section 5551 of title 5 and at the salary rate then in effect.

Section 4 of the bill proposes to add a new subsection (f) to section 6302 of title 5. The new subsection (f) will permit an employee who has used excess annual leave erroneously credited by his agency to elect to refund the amount of pay received for that excess leave by lump-sum or installment payments or to have the excess leave carried forward as a charge against his subsequent annual leave earnings. The authority provided will parallel the present procedure for liquidating advanced sick leave.

Under the authority of section 5584 of title 5, an agency may, under certain conditions, waive an overpayment of pay resulting from an employee's use of erroneously credited annual leave. If the employee is granted such a waiver under section 5584, the provisions of the new section 6302(f) would not be applicable.

Section 5 of the bill applies to former employees, except former employees of the former Post Office Department or former employees of the United States Postal Service, who are not on the rolls of the Government on the date of enactment of the act. The section provides that a claim may be filed by a former employee for annual leave which

accrued after June 30, 1960, but, because of administrative error, was lost by operation of section 6304 of title 5, United States Code. This benefit is similar to that granted under section 3 of the bill with respect to employees presently on the rolls. The claim must be filed with the agency by which the former employee was employed at the time the lump-sum payment provisions of 5 U.S.C. 5551 last became applicable to him and must be filed within 3 years immediately following the date of enactment of the act. The lump-sum payment for the annual leave will be made at the salary rate in effect on the date the lump-sum payment provisions last become applicable to the employee.

Section 6 of the bill applies to employees of the U.S. Postal Service, former employees of the Postal Service, and former employees of the former Post Office Department.

Under the provisions of the Postal Reorganization Act of 1970, Public Law 91-375, employees of the Postal Service are not covered by amendments to the annual and sick leave provisions of chapter 63 of title 5. Therefore, the amendments to those leave provisions which are proposed in sections 1 through 4 of the bill would not apply to employees of the Postal Service, and the provisions of section 5 of the bill relating to former employees do not apply to former employees of the U.S. Postal Service. Also, the provisions of section 5 have been made inapplicable to former employees of the former Post Office Department who never became employees of the U.S. Postal Service. Accordingly, specific authority is provided by this section of the bill to enable employees of the Postal Service and former employees of the Post Office Department or of the Postal Service to receive payment for annual leave which was accrued after June 30, 1960, and before July 1, 1971 (the date on which such employees officially became employees of the U.S. Postal Service), but was lost because of administrative error.

Subsection (a) of section 6 applies to a former employee of the Post Office Department, or a former employee of the U.S. Postal Service who had prior civilian service with the Post Office Department or some other Federal agency, and who is not on the rolls on the date of enactment of this act.

Under this provision, a former employee is entitled to receive a lump-sum payment for annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error, was lost by operation of section 6304 of title 5, United States Code. The claim for lump-sum payment must be filed with the U.S. Postal Service within 3 years immediately following the enactment date of the act.

The lump-sum payment will be made by the Postal Service at the employee's salary rate that was in effect on the date the lump-sum payment provisions of section 5551 of title 5, or comparable provisions of Postal Service regulations (applicable to a former employee of the U.S. Postal Service) last became applicable to the former employee.

Under subsection (b) of section 6, a present employee of the U.S. Postal Service who had prior civilian service with the Post Office Department or other Federal agency is entitled to receive a lump-sum payment for annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error, was lost by operation of section 6304 of title 5. The claim for such payment must be filed with the U.S. Postal Service within 3 years immediately fol-

lowing the date of enactment of the act. However, under this subsection, the payment will be based on the employee's salary rate which was in effect on the date of enactment of the act.

Section 7 of the bill amends section 5562(a) of title 5, United States Code, relating to employees in a missing status. At present, an employee in missing status, as defined in section 5561 (5) of title 5, is entitled to receive the same pay and allowances to which he was entitled at the beginning of the period in which he was in missing status, as well as those he may have become entitled to thereafter. However, he forfeits all annual leave which accrues in excess of the maximum leave accumulation permitted by law. This section of the bill would, in the case of an employee in missing status on or after January 1, 1965, establish an entitlement for payment for all annual leave which was forfeited under section 6304 of title 5, payable to the employee or his survivor at the rate of basic pay in effect at the time forfeiture took place.

COST

The Civil Service Commission has indicated that the Government would probably save money by adopting the lump-sum payoff provisions for annual leave in excess of ceiling at the time an employee separates, as is provided in section 1 of the bill. The costs of sections 2 through 6 would be more difficult to ascertain, but a check with representative agencies by the Civil Service Commission in 1971 elicited the general view that any effort to review records to obtain an estimate the cost would probably cost more than the benefit to be granted. The cost of these sections would be minimal in any event.

The Department of State has estimated the total cost of payments under section 7 of the bill to the 15 employees who were or who are believed to have been captured and imprisoned in Southeast Asia at \$75,000. Future costs under this provision are impossible to estimate, of course.

AGENCY REPORTS

The views of the Office of Management and Budget are included in the House report on the House version of H.R. 1284. The views of the Civil Service Commission, Department of State, and National Aeronautics and Space Administration appear below.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., November 6, 1973.

HON. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Civil Service Commission on H.R. 1284, a bill "To amend title 5, United States Code, to improve the administration of the leave system for Federal employees".

The Commission fully supports this legislation and urges early action on the measure.

It is essential, if at all possible, that final action on this bill be completed before the end of the current leave year which will be on January 5, 1974. The National Aeronautics and Space Administration has advised you of a situation in which many employees involved in

the launch and flight operations of manned space missions in the Skylab program will forfeit annual leave this year because of urgent mission requirements. H.R. 1284 would permit restoration of this leave for the affected Skylab mission employees; however, it must be enacted before the end of the current leave year.

There is one technical amendment that we believe to be essential. As presently written, the bill does not provide continuing authority to correct administrative errors that may be uncovered for those employees who separate after the date of enactment of the bill. Unless this oversight is provided for, we will not be able to provide equitable treatment for employees and former employees in the future. Accordingly, we are proposing that the following changes be made to H.R. 1284:

On page 2 at line 22, change "subsections (b) and (d) of this section" to "subsections (b), (d), and (e) of this section". Also at line 24, change "subsection:" to "subsections:"

Add the following new subsection on page 3 at line 22:

"(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d) (2) of this section, is subject to credit and liquidation by lump-sum payment. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate in effect on the date the lump-sum provisions became applicable."

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

ROBERT HAMPTON,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., August 23, 1973.

HON. GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate the opportunity afforded by your letter to the Secretary of June 29, 1973, to comment on S. 1221.

The Department strongly supports the concept of this bill which is to compensate civilian employees interned in Southeast Asia during the recent conflict for annual leave they were required to forfeit because of the limitation imposed by 5 U.S.C. 6304. Fifteen civilian employees were or are believed to have been captured and imprisoned in the recent conflict. One, Foreign Service officer Douglas K. Ramsey, was held captive for seven years, most of the others were held for five years. The Department believes that compensation for annual leave forfeited during captivity is a well deserved benefit for employees called upon to make such a major sacrifice.

Last year bills to provide such a benefit for both military and civilian personnel were introduced. The bill for military personnel

was enacted as P.L. 92-596. The benefit for civilian employees, recommended by the Department in letters to the Speaker and to the President of the Senate dated March 30, 1972, was incorporated in H.R. 12602 and passed by the House on June 19, 1972 but not acted upon by the Senate before adjournment. An identical provision is now included in H.R. 1284, 93rd Congress.

The Department believes it important from the standpoint of equity to provide comparable benefits to civilian and military personnel who were captured or in a missing status during the recent conflict. Since the leave amendment for military personnel was enacted last year, it is urgent that a comparable benefit for civilian employees be enacted at the earliest possible date.

The Department prefers the approach taken for military personnel under P.L. 92-596 over the approach taken in S. 1221. Accordingly, we are attaching for your consideration, a proposed substitute bill that takes that approach. The substitute language is the same as we recommended last year and which is incorporated as section 7 in H.R. 1284.

The principal differences between S. 1221 and the attached language are: First, S. 1221 would confine the benefit to employees who entered a missing status in Southeast Asia during the Vietnam era while the attached language and P.L. 92-596 apply to persons who enter a missing status anywhere in the world anytime after the effective date whether interned by a hostile force, held by terrorists, or otherwise counted in a missing status. Second, S. 1221 would give employees a choice between use or payment for the leave in question whereas the attached language and P.L. 92-596 provide only a cash payment for the leave. Civilian employees have up to one year of convalescent leave under 5 U.S.C. 6325 to recover from injuries sustained while serving abroad and caused by hostile action, and this benefit is available to employees returning from a period of captivity. Since we are trying to maintain parity of benefits between military and civilian personnel, it is believed we should follow the practice adopted for the military and provide only for a cash payment. Third, S. 1221 would amend the leave statute whereas the attached language would amend the missing persons statute. The latter is believed preferable because it would tie this proposed benefit to the other benefits provided employees in a missing status. Fourth, the effective date of S. 1221 would be February 28, 1961, whereas the effective date proposed in the attached language is January 1, 1965. We know of no civilian employee who entered a missing status in Southeast Asia prior to 1965.

We know of 15 Federal civilian employees or their survivors who would receive compensation under the proposed substitute bill. The total cost of payments to this group is estimated to be \$75,000.

Please let me know if the Department can be of further assistance in your consideration of this matter.

The Department has been informed by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

STANTON D. ANDERSON,
*Acting Assistant Secretary
for Congressional Relations.*

A BILL To provide that Federal employees shall be entitled to receive payment for annual leave forfeited while in a missing status

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 5562 of title 5, United States Code, is amended by inserting at the end of subsection (a) thereof the following sentence: "Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status. Such payment shall be at his rate of basic pay in effect at the time of forfeiture."

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., October 30, 1973.

Hon. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to respectfully urge early and favorable action by the Committee on Post Office and Civil Service and by the Senate on H.R. 1284, a bill "to amend title 5, United States Code, to improve the administration of the leave system for Federal employees." The comments set forth below are directed to that provision of this House-passed bill which would permit restoration of annual leave lost because of the exigencies of public business.

A large number of NASA's employees at the Johnson Space Center, Houston, Texas; the Marshall Space Flight Center, Huntsville, Alabama; and Headquarters, Washington, D.C., whose duties are directly related to the Skylab program will be unable to take some or all of the annual leave which they have earned and accrued by law, because their services are urgently required for the remainder of calendar year 1973 in support of that program.

This situation comes about because all four of the Skylab missions will be flown before the end of January 1974. These missions, with actual flight activity extending from May 1973 into January 1974, have required intensive duty schedules for Skylab operations personnel at the three indicated locations beginning with simulation exercises and other preparations in January. Granting of annual leave thus has had to be severely constrained from the outset of the leave year. Beginning with the launch of the Skylab 1 mission in May, it became virtually impossible for these personnel to use their accrued leave.

Further constraints were required when the loss of the micrometeoroid shield and the Solar Array System on the Skylab workshop endangered the entire \$2.6 billion program. Only intensive around-the-clock efforts on the part of the Skylab personnel "saved" the program with a revised flight schedule and the in-space repairs which have proven to be successful.

The problem is further exacerbated by the fact that most of the employees involved in the Skylab missions were also involved with

Apollo 17. Since that mission took place in December, many of these employees were unable to use much of their annual leave during 1972 and thus entered the leave year 1973 (which began January 7, 1973, and ends January 5, 1974) with the maximum of carry-over annual leave. Such employees, since they will not be able to take any significant portion of their leave during 1973, will lose most or all of the leave they will earn during 1973.

In NASA's opinion, it would be quite inequitable that these valued employees, who contributed so much to the success of the Skylab program, should be forced to forfeit the leave they have earned and so justly deserve.

In view of the foregoing, NASA recommends strongly in favor of prompt enactment of H.R. 1284, which, among other things, would permit these employees to carry over leave earned in 1973 into the 1974 leave year in excess of the maximum now permitted by law.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this letter.

Sincerely,

JAMES C. FLETCHER,
Administrator.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic) :

TITLE 5, UNITED STATES CODE

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Subpart D—Pay and allowances

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CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER VI—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

§ 5551. Lump-sum payment for accumulated and accrued leave on separation.

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is separated from the service or elects to receive a lump-sum payment for leave under section 5552 of this title, is entitled to receive a lump-sum payment for accumulated and current accrued annual or vacation leave to which he is entitled by statute. The lump-sum pay-

ment shall equal the pay the employee or individual would have received had he remained in the service until expiration of the period of the annual or vacation leave [], except that it may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater []. The lump-sum payment is considered pay for taxation purposes only.

* * * * *

(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter I of chapter 63 of this title by section 6301(2)(x)-(xii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is [—

[(1)] based on the rate of pay which he was receiving immediately before the date on which section 6301(2)(x)-(xii) of this title became applicable to him []; and

[(2)] made without regard to the limitation in subsection (a) of this section on the amount of leave compensable [].

* * * * *

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

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§ 5562. Pay and allowances; continuance while in a missing status; limitations

(a) An employee in a missing status is entitled to receive or have credited to his account, for the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter. *Notwithstanding other statutes, an employee in a missing status on or after January 1, 1965, is entitled to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status. Payment shall be at his rate of basic pay in effect at the time of forfeiture.*

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CHAPTER 63—LEAVE

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SUBCHAPTER I—ANNUAL AND SICK LEAVE

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§ 6302. General provisions

(a) * * *

* * * * *

(f) *An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments or to have*

the excess leave carried forward as a charge against later-accruing annual leave, unless repayment is waived under section 5584 of this title.

* * * * *

§ 6303. Annual leave; accrual

(a) * * *

* * * * *

(b) Notwithstanding subsection (a) of this section, an employee **is** entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under one or more appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him under subsection (a) of this section except for this subsection, *whose current employment is limited to less than 90 days is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under successive appointments without a break in service.*

* * * * *

§ 6304. Annual leave; accumulation

(a) Except as provided by **[subsection (b)]** *subsections (b), (d), and (e)* of this section, annual leave provided by section 6303 of this title, which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

* * * * *

(d) (1) *Annual leave which is lost by operation of this section because of--*

(A) *administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960;*

(B) *exigencies of the public business when annual leave was scheduled in advance; or*

(C) *sickness of the employee when annual leave was scheduled in advance;*

shall be restored to the employee.

(2) *Annual leave restored under paragraph (1) of this subsection which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission. Leave credited under this paragraph but unused and still available to the employee under the regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.*

(e) *Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d) (2) of this section because*

the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate in effect on the date the lump-sum payment provisions became applicable.

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